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OFFICE OF PETITIONS

In re Patent No. 5,788,178 :
Issue Date: August 4, 1998 :
Application No. 08/888,425 : REQUEST FOR INFORMATION
Filed: July 7, 1997 :
Attorney Docket No. RBAR0001-100 :
(165406) :

This is in response to the renewed petition under 37 CFR 1.378(b), filed April 10, 2006, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

On renewed petition, petitioner asserts employee error as the grounds for unavoidable delay.

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the due exercise of due care. See MPEP 711.03(c)(III)(C)(2).

Accordingly, before the renewed petition is considered on the merits, petitioner is requested to supply the above showing of employee error. Petitioner is given TWO (2) MONTHS to supply the information. If no response is received within that time, the renewed petition will be decided based on the evidence currently of record.

Further correspondence should be addressed as follows:

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Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-3207.



Cliff Congo
Petitions Attorney
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